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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

SHONETTA CRAIN AND KIRA SERNA,
individually and on behalf of all other
similar situated individuals,

Plaintiffs,

v.

ACCREDITED SURETY AND
CASUALTY COMPANY, *et al.*,

Defendants.

Case No. 3:19-CV-01265-JST

**STIPULATION RE: CAFA LOCAL
CONTROVERSY EXCEPTION**

STEVEN BREAUX, individually and on
behalf of all other similar situated
individuals,

Plaintiff,

v.

ACCREDITED SURETY AND
CASUALTY COMPANY, *et al.*,

Defendants.

Case No. 3:19-CV-00717-JST

1 Pursuant to the Court’s April 19, 2019 Order, Dkt. 19, Plaintiffs Kira Serna, Shonetta
2 Crain, and Steven Breaux and all Defendants in both the *Crain* and *Breaux* actions stipulate as
3 follows.

4 **WHEREAS**, the Class Action Fairness Act’s “local controversy” exception, 28 U.S.C. §
5 1332(d)(4)(A), is not jurisdictional and the Court is not obligated to consider its applicability *sua*
6 *sponte*, see *Visendi v. Bank of Am., N.A.*, 733 F.3d 863, 869 (9th Cir. 2013); *Kuxhausen v. BMW*
7 *Fin. Servs. NA LLC*, 707 F.3d 1136, 1140 (9th Cir. 2013);

8 **WHEREAS**, a party that seeks to remand on the basis of the “local controversy”
9 exception must establish, by a preponderance of the evidence, that its conditions are met,
10 including that at least two-thirds of the class members are California citizens, *i.e.*, United States
11 citizens domiciled in California, see *Mondragon v. Capital One Auto Fin.*, 736 F.3d 880, 884 (9th
12 Cir. 2013), *King v. Great Am. Chicken Corp.*, 903 F.3d 875, 879 (9th Cir. 2018) (stipulation that
13 class members’ four-year-old last known addresses were in California insufficient because
14 residential address does not guarantee domicile, U.S. citizenship, or that individuals have not
15 subsequently moved out-of-state);

16 **WHEREAS**, the Court has explained that a party’s ability to invoke the “local
17 controversy” exception may be forfeited or waived if not exercised within a reasonable time, Dkt.
18 19 at 2 (citing *Duran v. Sephora USA, Inc.*, No. 17-cv-01261-WHO, 2017 WL 3453362, at *4
19 (N.D. Cal. Aug. 11, 2017));

20 **NOW THEREFORE**, Plaintiffs and Defendants hereby jointly stipulate that they
21 knowingly waive and forfeit the right to move to, or otherwise argue in favor of, remand on the
22 basis of any exception to CAFA jurisdiction. However, such waiver is without prejudice to
23 Plaintiffs’ ability to request remand to California Superior Court should the Court, *sua sponte* or
24 at the request of a non-stipulating party or intervenor or appellate court, conclude that a CAFA
25 exception requires the Court to relinquish jurisdiction.

1 Dated: April 24, 2019

Respectfully submitted,

2 By: /s/ Dean M. Harvey

3 Dean M. Harvey (SBN 250298)
4 Katherine C. Lubin (SBN 259826)
5 Adam Gitlin (SBN 317047)
6 Yaman Salahi (SBN 288752)
7 LIEFF CABRASER HEIMANN & BERNSTEIN, LLP
8 275 Battery Street, 29th Floor
9 San Francisco, CA 94111
10 Telephone: (415) 956-1000
11 dharvey@lchb.com
12 kbenson@lchb.com
13 agitlin@lchb.com
14 ysalahi@lchb.com

15 Benjamin David Elga (*pro hac vice*)
16 Brian James Shearer (*pro hac vice*)
17 JUSTICE CATALYST LAW
18 25 Broadway, 9th Floor
19 New York, NY 10004
20 Telephone: (518) 732-6703
21 belga@justicecatalyst.org
22 brianshearer@justicecatalyst.org

23 Cindy Pánuco (SBN 266921)
24 Stephanie Carroll (SBN 263698)
25 Nisha Kashyap (SBN 301934)
26 PUBLIC COUNSEL
27 610 South Ardmore Avenue
28 Los Angeles, California, 90005
Telephone: (213) 385-2977
Facsimile: (213) 201-4722
cpanuco@publiccounsel.org
scarroll@publiccounsel.org
nkashyap@publiccounsel.org

Stuart T. Rossman (*pro hac vice*) (B.B.O.
No. 430640)
Brian Highsmith (*pro hac vice* motion
forthcoming)
NATIONAL CONSUMER LAW CENTER
7 Winthrop Square, Fourth Floor
Boston, MA 02110-1245
Telephone: (617) 542-8010
Facsimile: (617) 542-8028
srossman@nclc.org
bhighsmith@nclc.org

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28

David Seligman (*pro hac vice* motion
forthcoming)
TOWARDS JUSTICE
1410 High Street, Suite 300
Denver, CO 80218
Telephone: (720) 441-2236
Facsimile: (303) 957-2289
david@towardsjustice.org

*Counsel for Plaintiffs Shonetta Crain and Kira
Serna*

Dated: April 24, 2019

By: /s/ Julian Hammond

Julian Hammond
Polina Brandler
Ari Cherniak
HAMMONDLAW, P.C.
1829 Reisterstown Road, Suite 410
Baltimore, MD 21208
Telephone: (310) 601-6766
Facsimile: (310) 295-2385
jhammond@hammondlawpc.com
pbrandler@hammondlawpc.com
acherniak@hammondlawpc.com

Laura L. Ho
Goldstein Borgen Dardarian & Ho
300 Lakeside Drive, Suite 1000
Oakland, CA 94612
Telephone: (510) 763-9800
Facsimile: (510) 835-1417
lho@gbdhlegal.com

Counsel for Plaintiff Steven Breaux

Dated: April 24, 2019

By: /s/ Beatriz Mejia

Michael A. Attanasio (151529)
Beatriz Mejia (190948)
Jon F. Cieslak (268951)
Max Sladek de la Cal (324961)
COOLEY LLP

*Attorneys for Defendants Seaview Insurance
Company and Two Jinn, Inc.*

1 Dated: April 24, 2019

By: /s/ Julie A. Gryce

2 Julie A. Gryce (319530)
3 DLA PIPER LLP (US)
4 401 B Street, Suite 1700
5 San Diego, CA 92101-4297
6 Telephone: (619) 699-2700
7 Facsimile: (619) 699-2701
8 julie.gryce@dlapiper.com

9 Michael P. Murphy (*pro hac vice*)
10 John Hamill (*pro hac vice*)
11 DLA PIPER LLP (US)
12 Telephone: (212) 335-4500
13 Facsimile: (212) 335-4501
14 michael.murphy@dlapiper.com
15 john.hamill@dlapiper.com
16 jonathan.kinney@dlapiper.com

17 *Attorneys for Defendants Danielson National*
18 *Insurance Company and National American*
19 *Insurance Company of California*

20 Dated: April 24, 2019

By: /s/ Blake Zollar

21 Drew Koning (263082)
22 Blake Zollar (268913)
23 Shaun Paisley (244377)
24 KONING ZOLLAR LLP
25 2210 Encinitas Blvd., Suite S
26 Encinitas, CA 92024
27 Telephone: (858) 252-3234
28 Facsimile: (858) 252-3238
drew@kzllp.com
blake@kzllp.com
shaun@kzllp.com

Attorneys for Defendant All-Pro Bail Bonds,
Inc.

1 Dated: April 24, 2019

By: /s/ Joshua D. Lichtman

Gerard G. Pecht (*pro hac vice* to be filed)
NORTON ROSE FULBRIGHT US LLP
1301 McKinney, Suite 5100
Houston, Texas 77010
Telephone: (713) 651-5151
Facsimile: (713) 651-5246
gerard.pecht@nortonrosefulbright.com

Joshua D. Lichtman (SBN 176143)
NORTON ROSE FULBRIGHT US LLP
555 South Flower Street, Forty-First Floor
Los Angeles, California 90071
Telephone: (213) 892-9200
Facsimile: (213) 892-9494
joshua.lichtman@nortonrosefulbright.com

*Attorneys for Defendant American
Contractors Indemnity Company*

13 Dated: April 24, 2019

By: /s/ Anne K. Edwards

Anne K. Edwards (110424)
SMITH, GAMBRELL & RUSSELL, LLP
444 South Flower Street, Suite 1700
Los Angeles, CA 90071
Telephone: (213) 358-7210
Facsimile: (213) 358-7310
aedwards@sgrlaw.com

*Attorneys for Defendant Williamsburg
National Insurance Company*

21 Dated: April 24, 2019

By: /s/ Nicole S. Healy

Todd A. Roberts
Nicole S. Healy
Edwin B. Barnes
ROPERS, MAJESKI, KOHN & BENTLEY

*Attorneys for Defendants American Bail
Coalition, Inc. and William B. Carmichael*

1 Dated: April 24, 2019

By: /s/ David F. Hauge

2 David F. Hauge (128294)
3 Todd H. Stitt (179694)
4 Vincent S. Loh (238410)
MICHELMAN & ROBINSON, LLP

5 *Attorneys for Defendants United States Fire*
6 *Insurance Company, The North River*
7 *Insurance Company, Crum & Forster*
8 *Indemnity Company, and Seneca Insurance*
9 *Company*

10 Dated: April 24, 2019

By: /s/ Casey A. Hatton

11 Casey A. Hatton (SBN 246081)
12 HINSHAW & CULBERTSON LLP
13 One California Street, 18th Floor
14 San Francisco, CA 94111
15 Telephone: 415.362.6000
16 Facsimile: 451.834.9070
17 chatton@hinshawlaw.com

18 Christie A. Moore (*pro hac* pending)
19 W. Scott Croft (*pro hac* pending)
20 BINGHAM GREENEBAUM DOLL LLP
21 101 S. Fifth Street
22 3500 PNC Tower
23 Louisville, KY 40202
24 Telephone: 502.587.3758
25 Facsimile: 502.540.2276
26 cmoore@bgdlegal.com
27 wcroft@bgdlegal.com

28 *Attorneys for Bond Safeguard Insurance*
Company and Lexon Insurance Company

Dated: April 24, 2019

By: /s/ Travis Wall

Travis Wall (191662)
Spencer Kook (205304)
HINSHAW & CULBERTSON LLP

Attorneys for Defendant Philadelphia
Reinsurance Corporation

1 Dated: April 24, 2019

By: /s/ Gregory S. Day

2 Gregory S. Day
3 LAW OFFICES OF GREGORY S. DAY
4 120 Birmingham Drive, Suite 200
5 Cardiff, CA 92007
6 Telephone: (760) 436-2827
7 attygsd@gmail.com

8 *Attorneys for Defendants California Bail
9 Agents Association, Universal Fire &
10 Insurance Company, Sun Surety Insurance
11 Company*

9 Dated: April 24, 2019

By: /s/ Timothy P. Irving

10 Timothy P. Irving (108413)
11 TYSON & MENDES LLP
12 5661 La Jolla Boulevard
13 San Diego, CA 92037
14 Telephone: (858) 459-4400
15 Facsimile: (858) 459-3864
16 tirving@tysonmendes.com

17 *Attorneys for Defendant Aegis Security
18 Insurance Company*

16 Dated: April 24, 2019

By: /s/ Regina J. McClendon

18 Regina J. McClendon
19 LOCKE LORD LLP

20 *Attorneys for Defendant Safety First Insurance
21 Company*

21 Dated: April 24, 2019

By: /s/ Howard Holderness

22 John A. Sebastinelli (127859)
23 Howard Holderness (169814)
24 GREENBERG TRAUIG, LLP

25 *Attorneys for Defendants American Surety
26 Company and Indiana Lumbermens Mutual
27 Insurance Company*
28

1 Dated: April 24, 2019

By: /s/ Gary A. Nye

2 Gary A. Nye (126104)
3 ROXBOROUGH, POMERANCE, NYE & ADREANI,
4 LLP

5 *Attorneys for Defendants Allegheny Casualty*
6 *Company, Associated Bond and Insurance*
7 *Agency, Inc., Bankers Insurance Company,*
8 *Harco National Insurance Company,*
9 *International Fidelity Insurance Company,*
10 *Lexington National Insurance Corporation,*
11 *and Jerry Watson*

9 Dated: April 24, 2019

By: /s/ Shannon W. Bangle

10 James Mills (203783)
11 LAW OFFICE OF JAMES MILLS
12 1300 Clay Street, Suite 600
13 Oakland, CA 94612-1427
14 Telephone: (510) 521-8748
15 Facsimile: (510) 277-1413
16 james@jamesmillsllaw.com

15 Michael D. Singletary (*pro hac vice*)
16 Shannon W. Bangle (*pro hac vice*)
17 Brian C. Potter (*pro hac vice*)
18 BANGLE & POTTER, PLLC
19 604 W. 13th Street
20 Austin, TX 78701
21 Telephone: (512) 270-4844
22 Facsimile: (512) 270-4845
23 Michael@banglepotter.com
24 Shannon@banglepotter.com
25 Brian@banglepotter.com

26 *Attorneys for Defendant Financial Casualty &*
27 *Surety, Inc.*

1 Dated: April 24, 2019

By: /s/ Erik K. Swanholt

2 Erik K. Swanholt
3 FOLEY & LARDNER
4 555 South Flower St., 33rd Floor
5 Los Angeles, CA 90071
6 Telephone: (213) 972-4500
7 Facsimile: (213) 486-0065

8 *Attorneys for Defendants Continental*
9 *Heritage Insurance Company*

10 Dated: April 24, 2019

By: /s/ John M. Rorabaugh

11 John M. Rorabaugh (178366)

12 *Attorney for Defendant Golden State Bail*
13 *Association*

14 Dated: April 24, 2019

By: /s/ Paul J. Riehle

15 Paul J. Riehle (115199)
16 DRINKER BIDDLE & REATH LLP
17 4 Embarcadero Center, 27th Floor
18 San Francisco, California 94111
19 Telephone: (415) 551-7521
20 Facsimile: (415) 551- 7510
21 paul.riehle@dbr.com

22 *Attorneys for Defendant Accredited Surety and*
23 *Casualty Company, Inc.*

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FILER'S ATTESTATION

Pursuant to General Order No. 45, § X(B), I attest under penalty of perjury that
concurrence in the filing of the document has been obtained from all the signatories.

DATED: April 24, 2019

/s/ Dean M. Harvey
DEAN M. HARVEY
LIEFF CABRASER HEIMANN & BERNSTEIN, LLP